

Hearing Date: October 8, 2013
Hearing Time: 10:00AM

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

In re

Case No. 09-24277-rdd

KARIN TZAMAROT & AARON TZAMAROT,

Chapter 11

Debtors.

NOTICE OF HEARING

-----X

PLEASE TAKE NOTICE, that upon the annexed motion (the "Motion") of Karin Tzamarot and Aaron Tzamarot, the above-named Chapter 11 Debtors, and upon all the proceedings had herein the undersigned will move before the Honorable Robert D. Drain United States Bankruptcy Judge for the Southern District of New York at the United States Courthouse, 300 Quarropas Street, White Plains, New York, on **October 8, 2013**, or as soon thereafter as counsel may be heard for an Order requiring Lawrence Morison, Esq. and/or Meister Seelig & Fein, LLP, Sarit Shmulevitz, Esq., and Richard Rosen, Esq. to disgorge all fees received from Debtors in connection with this bankruptcy and granting such other and further relief that is just and equitable.

Dated: White Plains, New York
July 10, 2013

LAW OFFICES OF GARVEY TIRELLI & CUSHNER, LTD.

By: /S/Linda M. Tirelli
Linda M. Tirelli, Esq.
Attorney for the Debtor
50 Main Street, Suite 390
White Plains, New York 10591
(914) 946-2200/ (914) 946-1300 (fax)

To:

Mr. Lawrence Morrison, Esq.
140 East 45th Street, 19th Floor
New York, New York 10017

Meister, Seelig & Fein, LLP
Two Grand Central Tower
140 East 45th Street, 19th Floor
New York, New York 10017

Sarit Shmulevitz, Esq.
Shmulevitz Law
9 Glenwood Road
Scarsdale, New York 10583

Sarit Shmulevitz, Esq.
Shmulevitz Law
155 West 68th Street, Apt 2126
New York, New York 10023

Richard Rosen
110 East 59th Street, 23rd Floor
New York, New York 10022

Hearing Date: October 8, 2013
Hearing Time: 10:00AM

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

In re

Case No. 09-24277-rdd

KARIN TZAMAROT & AARON TZAMAROT,

Chapter 11

Debtors.

-----X

**MOTION OF THE DEBTORS SEEKING DISGORGMENT OF FEES PAID
IN CONNECTION WITH DEBTORS' BANKRUPTCY CASE**

TO: THE HONORABLE ROBERT D. DRAIN
UNITED STATES BANKRUPTCY JUDGE:

Karin and Aaron Tzamarot, the Chapter 11 Debtors ("Debtors") in the above captioned case, by and through their attorney of record, Linda M. Tirelli, Esq., of Garvey Tirelli & Cushner, Ltd., herby respectfully file this motion pursuant to 11 U.S.C. § 329(a) and Fed. R. Bankr. P. 2016, and move this Court to compel the following attorneys to disgorge fees in connection with Debtors' bankruptcy action:

- (1) Lawrence Morison, Esq. and/or Meister Seelig & Fein, LLP,
- (2) Sarit Shmulevitz, Esq.,
- (3) Richard Rosen, Esq.

and in support thereof state the following:

1. On December 6, 2009, Debtors filed a petition for relief pursuant to Chapter 13 of the Bankruptcy Code in the United States Bankruptcy Court, Southern District of New York. The Debtor's bankruptcy case was subsequently converted to a case pursuant to Chapter 11 of the Bankruptcy Code on March 16, 2010.
2. The Debtors aver that on December 28, 2009 they made a \$3,000.00 cash payment to

Larry Morrison and/or Meister, Seelig & Fein, LLP for assistance in filling their Chapter 13 bankruptcy. Debtors subsequently made a \$4,000.00 payment by check on January 20, 2010, as well as a \$4,074.87 and \$1,985.39 payments by check on May 1, 2010. Additionally Debtor's made an undated \$5,080.00 cash payment to Mr. Morrison in connection with the filling of their bankruptcy, totaling \$18,140.26 to Mr. Morrison and Meister, Seelig & Fein, LLP.

3. The Debtors further aver that on March 25, 2011 they made a \$9,500.00 payment by check to Sarit Shmulevitz, as well as a \$500.00 cash payment, in connection with converting their bankruptcy from a Chapter 13 to a Chapter 11. Debtors subsequently made a \$600.00 payment by check to Ms. Shmulevitz on April 23, 2011, totaling \$10,600.00.

4. Additionally, the Debtors aver that they made a total of \$23,000.00 worth of payments to Richard Rosen, Esq.

5. 11 U.S.C. § 329(a) explicitly states that:

[a]ny attorney representing a debtor in a case under this title, or in connection with such a case, whether or not such attorney applies for compensation under this title, shall file with the court a statement of the compensation paid or agreed to be paid, if such payment or agreement was made after one year before the date of the filing of the petition, for services rendered or to be rendered in contemplation of or in connection with the case by such attorney, and the source of such compensation.

Further Fed. R. Bankr. P. 2016(a) makes clear that where an entity is seeking compensation for services, that entity must file an application with a detailed statement of:

- (1) the services rendered, time expended and expenses incurred, and
- (2) the amounts requested.

7. Moreover, where counsel receives compensation in excess of \$500.00, even when from third parties, court approval of fees must be obtained by the aforementioned application process.

See In Re Greco, 246 B.R. 226 (Bankr. E.D. Penn. 2000).

8. In the instant matter, all payments to the above listed attorneys were received or

purportedly earned after the filing of the Debtor's Chapter 13 Bankruptcy Case, without any disclosures required by 11 U.S.C. § 329(a) and Fed. R. Bankr. P. 2016. There was no court-approved application to employ the services of any of the above listed entities, nor any court-approved application for payment of their fees. (*See* ECF Docket List, annexed hereto as **EXHIBIT A**).

WHEREFORE, the Debtors respectfully request (1) the entry of an order requiring Lawrence Morison, Esq. and/or Meister Seelig & Fein, LLP, Sarit Shmulevitz, Esq., and Richard Rosen, Esq. to disgorge all fees received from Debtors in connection with this bankruptcy, specifically not less than \$51,740.26, the total of all fees paid in connection with this matter, and (2) for such other and further relief as this Court may deem just and equitable.

Dated: White Plains, New York
July 10, 2013

Respectfully submitted,

LAW OFFICES OF GARVEY TIRELLI & CUSHNER, LTD.

By: /S/Linda M. Tirelli
Linda M. Tirelli, Esq.
Attorney for the Debtor
50 Main Street, Suite 390
White Plains, New York 10591
(914) 946-2200/ (914) 946-1300 (fax)

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

In re

Case No. 09-24277-rdd

KARIN TZAMAROT & AARON TZAMAROT,

Chapter 11

Debtors.

-----X

PROPOSED ORDER

Upon the application of Karin and Aaron Tzamarot, the Chapter 11 Debtors ("Debtors") in the above captioned case, for an order requiring Lawrence Morison, Esq. and/or Meister Seelig & Fein, LLP, Sarit Shmulevitz, Esq., and Richard Rosen, Esq. to disgorge all fees received from Debtors in connection with this bankruptcy, and upon the record of the hearing held by the Court, it is:

ORDERED, that Lawrence Morison, Esq. and/or Meister Seelig & Fein, LLP, Sarit Shmulevitz, Esq., and Richard Rosen, Esq. must disgorge all fees received from Debtors in connection with this bankruptcy, effective _____; and it is

FURTHER ORDERED, the fees received by the above named individuals shall be immediately repaid to the Debtors' bankruptcy estate in the following amounts: fees paid to Lawrence Morrison and/or Meister, Seelig & Fein, LLP in the amount of \$18,140.26; fees paid to Sarit Shmulevitz in the amount of \$10,600.00; fees paid to Richard Rosen in the amount of \$23,000.

Dated: _____, 2013
White Plains, New York

Hon. Robert D. Drain,
United States Bankruptcy Judge, SDNY